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CHAPTER Site 200 PRACTICE AND PROCEDURE RULES

Adopt Site 201.01 through 205.01 to be cited and to read as follows:

PART Site 201 PUBLIC INFORMATION HEARINGS

Site 201.01 Public Information Hearings.

(a) Within 30 days of a finding that an application for a bulk power facility or an energy facility is complete pursuant to 301.05, the committee, or, in the case of a bulk power supply facility, the commission, with representatives of other agencies that have jurisdiction over the subject matter, shall hold at least one joint public information hearing in each county in which the proposed facility is to be located, pursuant to RSA 162-H:10, I.(b) For applications for a renewable energy facility, the subcommittee shall hold at least one public information hearing, upon 30 days notice, in each county in which the proposed facility is to be located, pursuant to RSA 162-H:6-a.

(c) The purpose of public information hearings shall be to allow the applicant to describe the nature and location of the proposed facilities to the committee or commission, as applicable, and to the public and to allow members of the public to raise questions and make comments about the proposal.

(d) The presiding officer of a public information hearing shall:

(1) Require persons desiring to make comments to so indicate by signing a roster made available for this purpose prior to the commencement of the public information hearing; and

(2) Limit the time allowed at hearing for each person's comments when necessary to allow all persons with comments to make them.

Site 201.02 Informational Meetings. The applicant shall hold informational meetings upon request of the local governing body or the committee pursuant to RSA 162-H:15.

PART Site 202 ADJUDICATIVE PROCEEDINGS

Site 202.01 Adjudicative Hearing. Except for petitions to intervene, which shall be governed by Site 202.11, the committee and, in the case of a bulk power supply facility application, the commission, shall conduct an adjudicative proceeding, regarding an application or petition, or when determining whether to suspend or revoke a certificate, in accordance with the administrative procedure act, RSA 541-A, and these rules.

Site 202.02 Presiding Officer.

(a) The chairperson of the committee shall preside over adjudicative hearings or shall designate the vice-chairperson as presiding officer.

(b) In the absence of the chairperson and vice-chairperson, the members present shall select by majority vote a member to serve as presiding officer.

(c) In adjudicative proceedings, the presiding officer shall:

(1) Facilitate informal resolution of contested issues;

- (2) Conduct any hearing in a fair and efficient manner;
- (3) Admit relevant evidence and exclude irrelevant, immaterial or unduly repetitious evidence;
- (4) Provide opportunities for the parties and committee members to question any witness;
- (5) Receive public statements; and
- (6) Cause a complete record of any hearing to be made.

Site 202.03 Withdrawal of Presiding Officer or Committee Member.

(a) Upon his or her own initiative, or upon the motion of any party, a member of the committee shall, for good cause, withdraw from a proceeding to consider an application or petition.

(b) Good cause shall exist if a committee member has:

- (1) A direct interest in the outcome of the proceeding, including but not limited to a financial or family relationship within the third degree of relationship with any party or representative; or
- (2) Made statements or engaged in behavior which a reasonable person would believe indicates that he or she has prejudged the facts of the case; or
- (3) Personally believes he or she cannot fairly judge the facts of the case.

(c) Mere knowledge of the issues, the parties or any witness shall not constitute good cause for withdrawal.

Site 202.04 Appearances and Representation.

(a) A party or the party's representative shall file an appearance that includes the following information:

- (1) A brief identification of the matter;
- (2) A statement as to whether or not the representative is an attorney and if so, whether the attorney is licensed to practice in New Hampshire; and
- (3) The party or representative's daytime address and telephone number.

Site 202.05. Staff Participation.

- (a) Staff shall participate in adjudicative proceedings on an advisory basis.
- (b) Staff shall be designated by the chairman.

Site 202.06 Format of Documents.

(a) All correspondence, pleadings, motions, petitions or other documents filed under these rules shall:

- (1) Include the title and docket number of the proceeding, if known;
- (2) Be typewritten or clearly printed on paper 8 ½ by 11 inches in size;
- (3) Be signed by the party or proponent of the document, or if the party appears by representative, by the representative; and
- (4) Include a statement certifying that the document has been served on all parties to the proceeding.

(b) The signature on a document filed with the committee or subcommittee, as applicable, shall constitute certification that:

- (1) The signer has read the document;
- (2) The signer is authorized to file it;
- (3) To the best of the signer's knowledge, information and belief, there are good and sufficient grounds to support it; and
- (4) The document has not been filed for purposes of delay.

Site 202.07 Service of Documents.

(a) All petitions, motions, exhibits, memoranda, or other documents filed by any party to a proceeding governed by these rules shall be served by that party upon all other parties on the service list.

(b) All notices, orders, decisions or other documents issued by the committee or subcommittee, as applicable, pursuant to this chapter shall be served by the presiding officer upon all parties on the service list.

(c) Service of all documents relating to a proceeding shall be made by electronic mail unless a party or person listed on the service list has indicated an inability to receive service by electronic mail in which case service shall be made by first class mail, postage prepaid, in the United States mail.

(d) If a party serving documents does not have the ability to serve them by electronic mail, service shall be made by first class mail, postage prepaid, in the United States mail.

(e) Notwithstanding paragraphs (a) through (c), when a party appears by a representative, service shall be upon the representative by electronic mail unless the representative has indicated an inability to receive service by electronic mail in which case service shall be made by first class mail, postage prepaid, in the United States mail at the address stated on the appearance filed by the representative.

Site 202.08 Computation of Time.

(a) Unless otherwise specified, all time periods referenced in this chapter shall be calendar days.

(b) Computation of any period of time referred to in these rules shall begin with the day after the action which sets the time period in motion, and shall include the last day of the period so computed.

(c) If the last day of the period so computed falls on a Saturday, Sunday or legal holiday, then the time period shall be extended to include the first business day following the Saturday, Sunday or legal holiday.

Site 202.09 Notice of Hearing. A notice of an adjudicative hearing issued by the committee or subcommittee, as applicable, shall contain the information required by RSA 541-A:31, III and a description of the nature and location of the proposed facilities.

Site 202.10 Prehearing Conference.

(a) Prehearing conferences shall be conducted in accordance with RSA 541-A:31.

(b) The committee or subcommittee shall designate counsel as the presiding officer for a prehearing conference when it is necessary to assure the orderly process of the proceeding.

(c) Following the prehearing, the presiding officer shall issue in writing to the parties and intervenors a procedural schedule for the proceeding.

Site 202.11 Intervention.

(a) Persons seeking to intervene in a proceeding shall file petitions with the committee or subcommittee as applicable with copies served on all parties identified in the committee or subcommittee notice of hearing pursuant to the issued prehearing schedule.

(b) The presiding officer shall grant a petition to intervene if:

(1) The petition is submitted in writing to the presiding officer, with copies mailed to all parties named in the presiding officer's order of notice of the hearing, at least 3 days before the hearing;

(2) The petition states facts demonstrating that the petitioner's rights, duties, privileges, immunities or other substantial interests might be affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and

(3) The presiding officer determines that the interests of justice and the orderly and prompt conduct of the proceedings would not be impaired by allowing the intervention.

(c) The presiding officer shall grant one or more late-filed petitions to intervene pursuant to RSA 541-A:32, II upon determining that such intervention would be in the interests of justice and would not impair the orderly and prompt conduct of the hearings.

(d) The presiding officer shall impose conditions upon such intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time, including the following if such conditions promote the efficient and orderly process of the proceeding:

(1) Limitation of such intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the motion;

(2) Limitation of such intervenor's use of cross-examination and other procedures so as to promote the orderly and prompt conduct of the proceedings; and

(3) Requiring 2 or more such intervenors to combine their presentations of evidence and argument, cross-examination and other participation in the proceedings.

(e) Limitations imposed in accordance with paragraph (d) shall not be so extensive as to prevent such an intervenor from protecting the interest that formed the basis of the intervention.

Site 202.12 Discovery.

(a) The, presiding officer shall authorize data requests in the nature of interrogatories, requests for production of documents, requests for admission of material facts, depositions and any other discovery method permissible in civil judicial proceedings before a state court when such discovery is necessary to enable a party to acquire evidence admissible in a proceeding and when such method will not unduly delay the prompt and orderly conduct of the proceeding.

(b) The presiding officer shall issue a prehearing order prescribing the methods of discovery, the timing of discovery and the means for resolving discovery disputes.

Site 202.13 Site Inspections. The committee or subcommittee, as applicable, and public counsel shall conduct a site visit of any property which is the subject of a hearing if requested by a party, or on its own motion, if the committee or subcommittee determines that the site visit will assist the committee or subcommittee in reaching a determination in the hearing.

Site 202.14 Motions and Objections.

(a) Motions shall be in writing and filed with the committee unless made in response to a matter asserted for the first time at a hearing.

(b) Oral motions and any contemporaneous objection to such motions shall be recorded in full in the record of the hearing.

(c) The presiding officer shall direct the moving party to submit the motion in writing, with supporting information, by the deadline established by the presiding officer if the presiding officer finds that the motion requires additional information in order to be fully and fairly considered. The presiding officer shall establish a deadline that promotes the efficient and orderly process of the proceeding.

(d) The moving party shall make a good faith effort to obtain concurrence with the relief sought from all of the parties.

(e) The caption of a motion shall state whether it is assented-to or contested, and shall identify within the body of the motion those parties that:

(1) Concur in the motion;

(2) Take no position on the motion;

(3) Object to the motion; and

(4) Could not be reached despite a good faith effort to do so.

(f) Objections to written motions shall be filed within 10 days of the date of the motion, unless a different time period is prescribed by the presiding officer.

(g) Failure by an opposing party to object to a motion shall not in and of itself constitute grounds for granting the motion.

(h) The presiding officer, shall rule upon a motion after full consideration of all objections and other factors relevant to the motion.

Site 202.15 Waiver of Rules.

(a) The committee shall waive the provisions this chapter, except where precluded by statute, upon request by an interested party if the committee finds that:

(1) The waiver serves the public interest; and

(2) The waiver will not disrupt the orderly and efficient resolution of matters before the committee.

(b) In determining the public interest, the committee shall waive a rule if:

(1) Compliance with the rule would be onerous or inapplicable given the circumstances of the affected person; or

(2) The purpose of the rule would be satisfied by an alternative method proposed.

(c) Any interested party seeking a waiver shall make a request in writing, except as provided in (d) below.

(d) The committee shall accept for consideration any waiver request made orally during a hearing or prehearing conference.

(e) A request for a waiver shall specify the basis for the waiver and the proposed alternative, if any.

Site 202.16 Postponements.

(a) A party requesting postponement of a hearing shall file a written request with the committee at least 7 days prior to the date of the hearing.

(b) The party requesting postponement shall make a good faith attempt to seek the concurrence of the other parties to the request.

(c) The committee shall grant a request for postponement of a hearing if it finds that to do so would promote the orderly and efficient conduct of the proceeding.

(d) If the later date, time and place are known at the time of the hearing that is being postponed, the date, time and place shall be stated on the record.

(e) If the later date, time and place are not known at the time of the hearing that is being postponed, the committee shall issue a written order stating the date, time and place of the postponed hearing as soon as practicable.

Site 202.17. Continuances.

(a) Any party or intervenor may make an oral or written motion at hearing that the hearing be continued to a later date or time.

(b) A motion for continuance shall be granted if the president officer determines that a continuance could assist in resolving the case fairly.

(c) If the later date, time and place are known when the hearing is continued, the information shall be stated on the record.

(d) If the later date, time and place are not known when the hearing is continued, the presiding officer shall issue a written scheduling order stating the date, time and place of the continued hearing.

Site 202.18 Record of the Hearing. A record shall be kept of hearings and transcripts shall be made available in accordance with RSA 541-A:31.

Site 202.19 Burden and Standard of Proof.

(a) The party asserting a proposition shall bear the burden of proving the truth of the proposition by a preponderance of the evidence.

(b) An applicant for a certificate of site and facility shall bear the burden of proving facts sufficient for the committee, in the case of an energy facility, the commission, in the case of a bulk power supply facility; and, the designated subcommittee, in the case of a renewable energy facility, to make the findings required by RSA 162-H:16.

(c) In a hearing held to determine whether a certificate, license, permit or other approval that has already been issued should be suspended, revoked or not renewed, the committee or subcommittee, as applicable, shall make its decision based on a preponderance of the evidence.

Site 202.20 Order of Proceeding. Evidence shall be offered in the following order:

(a) The applicant or other party bearing the overall burden of proof;

(b) Intervenors; and

(c) Counsel for the public.

Site 202.21 Testimony. All testimony shall be under oath or affirmation, and shall be subject to cross-examination by parties or their representatives.

Site 202.22 Prefiled Testimony.

(a) An original and 15 copies of an applicant's prefiled testimony and exhibits shall be filed with its application.

(b) Prefiled testimony and exhibits from other parties or rebuttal testimony from the applicant or any other party shall be filed as determined by a procedural order issued by the presiding officer.

(c) One copy of prefiled testimony and exhibits shall also be forwarded by the applicant to each party and to each person listed on the service list.

Site 202.23 Filings and Applications. All filings and applications shall be made to the following address:

Site Evaluation Committee
N.H. Department of Environmental Services
29 Hazen Drive
Concord, New Hampshire 03302-0095.

Site 202.24 Evidence.

(a) Receipt of evidence shall be governed by the provisions of RSA 541-A:33.

(b) All documents, materials and objects offered as exhibits shall be admitted into evidence unless excluded by the presiding officer as irrelevant, immaterial, unduly repetitious or legally privileged.

(c) All objections to the admissibility of evidence shall be stated as early as possible in the hearing, but not later than the time when the evidence is offered.

(d) Transcripts of testimony and documents or other materials admitted into evidence shall be public records unless the presiding officer determines that all or part of a transcript or document is exempt from disclosure under RSA 91-A:5 as interpreted by case law.

Site 202.25 Public Statements.

(a) Members of the public who do not have intervenor status in a proceeding but having an interest in the subject matter shall be provided with an opportunity at a hearing or prehearing conference to state their position.

(b) Statements by members of the public shall be unsworn and shall not be subject to cross-examination.

(c) Any written information or reports submitted by members of the public pursuant to RSA 162-H:10,III shall be presented prior to the close of the record on the application.

(d) Members of the public providing written information or reports pursuant to RSA 162-H:10, III shall provide copies of the written materials to the applicant.

(e) The committee shall post on its website all written documents submitted in connection with an adjudicative proceeding, including those submitted by members of the public except as provided in 202.25(d).

Site 202.26 Closing the Record.

(a) At the conclusion of a hearing, the record shall be closed and no other evidence, testimony, exhibits, or arguments shall be allowed into the record, except as allowed by paragraph (b) below.

(b) Prior to the conclusion of the hearing, a party may request that the record be left open to accommodate the filing of evidence, exhibits, or arguments not available at the hearing.

(c) If the other parties to the hearings have no objections or if the presiding officer determines that such evidence, exhibits, or arguments are necessary to a full consideration of the issues raised at the hearing, the presiding officer shall specify a date no later than 30 days after the hearing for the record to remain open to receive the evidence, exhibits or arguments.

(d) If any other party to the hearing requests time to respond to the evidence, exhibits or arguments submitted, the presiding officer shall specify a date no later than 30 days following the filing of the material for the filing of a response.

(e) If any other party to the hearing requests the opportunity to cross-examine on the additional evidence or exhibits submitted, the presiding officer shall specify a date no later than 30 days following filing of the materials for a hearing at which cross-examination on the additional evidence or exhibits submitted shall be allowed.

Site 202.27 Reopening the Record.

(a) A party may request that the record be re-opened to receive relevant, material and non-duplicative evidence or argument by written motion.

(b) If the presiding officer, determines that additional testimony, evidence or arguments are necessary for a full consideration of the issues presented at the hearing, the record shall be reopened to accept the offered items.

(c) The presiding officer shall specify a date no later than 30 days from the date of receiving the additional testimony, evidence or argument by which other parties shall respond to or rebut the newly received materials.

Site 202.28 Issuance or Denial of Certificate.

(a) The committee or subcommittee, as applicable, shall make a finding regarding the criteria stated in RSA 162-H:16,IV and issue an order pursuant to RSA 541-A:35 issuing or denying a certificate.

(b) The committee shall keep an order and filings related to an application on file in its public records for at least 10 years following the date of the final order on any appeal.

Site 202.29 Rehearing.

(a) The rules in this section are intended to supplement RSA 541 which require or allow a person to request a rehearing of a decision of the committee prior to appealing the decision.

(b) The rules in this section shall apply whenever any person has a right under applicable law to request a rehearing of a decision prior to filing an appeal of the decision with the court having appellate jurisdiction.

(c) A motion for rehearing shall be filed within 30 days of the date of a committee decision or order.

(d) A motion for rehearing shall:

- (1) Identify each error of fact, error of reasoning, or error of law which the moving party wishes to have reconsidered;
- (2) Describe how each error causes the committee's decision to be unlawful, unjust or unreasonable, or illegal in respect to jurisdiction, authority or observance of the law, an abuse of discretion or arbitrary unreasonable or capricious;
- (3) State concisely the factual findings, reasoning or legal conclusion proposed by the moving party; and
- (4) Include any argument or memorandum of law the moving party wishes to file.

(e) A motion for rehearing in a case subject to appeal under RSA 541 shall be granted in writing if it demonstrates that the committee's decision is unlawful, unjust or unreasonable.

(f) The committee shall grant or deny a motion for rehearing, or suspend the order or decision, in writing pending further consideration within 10 days of the filing of the motion for rehearing.

Site 202.30 Ex Parte Communications Prohibited.

(a) Committee members shall not communicate directly or indirectly with any person or party about the merits of an application or petition unless all parties are given notice and an opportunity to participate in the communication.

(b) Communications between or among committee, or between committee members and their attorneys, or between or among the presiding officer and one or more personal assistants are not prohibited under this section.

PART Site 203 DECLARATORY RULINGS

Site 203.01 Declaratory Rulings.

(a) Any person may submit a motion for declaratory ruling from the committee on matters within its jurisdiction by filing an original written request original and 15 copies with the committee.

(b) A motion for declaratory ruling shall set forth the following information:

- (1) The exact ruling being requested; and
- (2) The statutory and factual basis for ruling, including any supporting affidavits or memoranda of a law.

Site 203.02 Action on Requests.

(a) The person requesting a declaratory ruling shall provide such further information or participate in such evidentiary or other proceedings as the committee shall direct after reviewing the petition and any replies received.

(b) Upon review and consideration, the committee shall issue a written ruling either granting or denying the motion with an explanation of the factual and legal basis for granting or denying such motion within 90 days of receiving the motion.

PART Site 204 RULEMAKING

Site 204.01 How Adopted.

(a) A rule of the committee or any amendment or repeal thereof shall be adopted by the committee after notice and opportunity for hearing in accordance with this part.

(b) Rules may be proposed by any person or by the agency.

Site 204.02 Manner for Adoption.

(a) The committee shall commence a rulemaking proceeding by drafting a proposed rule or by accepting as a proposed rule the draft of a rule proposed by any person.

(b) With respect to any proposed rule, the committee shall conduct rulemaking and adoption proceedings pursuant to RSA 541-A.

Site 204.03 Requests to Committee for Rulemaking. Requests from interested persons requesting adoption, amendment or repeal of a rule shall be received and disposed of in the following manner:

(a) Requests shall be submitted to the committee by letter addressed to the chairperson.

(b) Requests shall contain the following:

(1) The date of the request;

(2) The name, address and telephone number of the person making the request; and

(3) Name and address of any other person or organization represented by the person making the request.

(c) The person making the request shall sign the request.

(d) The request shall be typed or printed in a legible fashion.

(e) If possible, the person making the request shall cite the rule and its provisions and specify any changes desired if repeal or amendment is sought, and shall provide the text or approximate text of the proposed rule if promulgation is sought.

(f) The person making the request shall include a detailed and complete statement of the reasons offered by such person in support of the requested action.

(g) If the committee determines that any rulemaking request is deficient in any respect, the committee shall, within 10 working days of receipt of said request, notify the person making the request, in writing, of the specific deficiencies and allow such person to amend the petition.

(h) Within 30 days of receipt of a request or amended request for rulemaking, the committee shall take one of the following actions:

- (1) Initiate the requested rulemaking procedures, in accordance with this part; or
- (2) Deny the request, in writing, stating the reasons for denial.

(i) The committee shall grant the petition if the petition is consistent with statute and case law and will assist the committee with its statutory duties.

Site 204.04 Request for Notice of Intended Rulemaking Action. Pursuant to the provisions of RSA 541-A, the committee shall maintain a current listing of all persons having made a request for advance notice of the rulemaking proceedings.

Site 204.05 Public Hearing.

(a) If the committee initiates rulemaking proceedings under RSA 541-A, or if rulemaking is initiated pursuant to a request for rulemaking, the committee shall hold at least one public hearing pursuant to RSA 541-A:11.

(b) Notice shall be given at least 20 days prior to the public hearing pursuant to RSA 541-A:6, I.

(c) The committee shall limit the time allowed at hearing for each person's comments when necessary to allow all persons with comments to make them.

(d) The committee shall require persons desiring to make comments to so indicate by signing a roster made available for this purpose prior to the commencement of the public comment hearing.

Adopt Puc 205 to be cited and to read as follows:

Site 205 EXPLANATION OF PROPOSED RULE

Site 205.01 Explanation of Proposed Rule.

(a) If requested by an interested person at any time before 30 days after final adoption of a rule, the committee shall issue a written explanation of the rule pursuant to RSA 541-A:11, VII.

(b) An explanation issued pursuant to this section shall include:

- (1) A concise statement of the principal reasons for and against the adoption of the rule in its final form; and
- (2) An explanation of why the committee overruled the arguments and considerations against the rule.

CHAPTER Site 300 CERTIFICATES OF SITE AND FACILITY

Adopt Site 301.01 through 302.04 to be cited and to read as follows:

Part Site 301 REQUIREMENTS FOR APPLICATIONS FOR CERTIFICATES

Site 301.01 Filing.

(a) Each applicant for a certificate for an energy facility or a renewable energy facility shall file one original and 18 copies of its application and an electronic version of its application in PDF format with the committee.

(b) Pursuant to RSA 162-H:7,I, each applicant for a certificate for a bulk power supply facility shall file on original and 18 copies of its application and an electronic version of its application in PDF format with the commission.

(c) The chairperson shall:

(1) Acknowledge receipt of the application in Site 301.01(a) in writing directed to the applicant;

(2) Forward a copy of the application and acknowledgment to each member of the committee and the department of cultural affairs division of historical resources; and

(3) Post a copy of each application on the committee's website.

Site 301.02 Format of Application.

(a) Applications shall be prepared on standard 8 ½ x 11 inch sheets, and plans shall be folded to that size.

(b) Each application shall contain a table of contents.

(c) All information furnished shall follow the numbering system set forth in Site 301.03.

(d) If any numbered item is not applicable or the information is not available, an appropriate comment shall be made so that no numbered item shall remain unanswered.

(e) To the extent practicable, copies of applications shall be double-sided.

Site 301.03 Contents of Application.

(a) Each application for a certificate of site and facility for an energy facility, a renewable energy facility, or a bulk power supply facility shall be signed and sworn to by the person, or the executive officer of the association or corporation, making such application.

(b) Each application shall include the information contained in this subparagraph, and subparagraphs (c) through (k) below, as follows:

(1) The name of the applicant;

- (2) The applicant's mailing address, telephone and fax numbers, and e-mail address;
 - (3) The name and address of the applicant's parent company, association or corporation if the applicant is a subsidiary;
 - (4) If the applicant is a corporation;
 - a. The state of incorporation;
 - b. The corporation's principal place of business; and
 - c. The names and addresses of its directors, officers and stockholders;
 - (5) If the applicant is an association, the names and addresses of the residences of the members of the association;
 - (6) Whether the applicant is the owner or lessee of the site or facility or has some legal or business relationship to it; and
 - (7) A statement of assets and liabilities of the applicant.
- (c) Each application shall contain the following site information:
- (1) The location and address of the site of the proposed facility;
 - (2) Site acreage, shown on an attached property map and located by scale on a U.S. Geological Survey or GIS map;
 - (3) The location of residences, industrial buildings, and other structures and improvements within or adjacent to the site;
 - (4) Identification of wetlands and surface waters of the state within or adjacent to the site; and
 - (5) Identification of natural and other resources at or within or adjacent to the site.
 - (6) Information related to whether the proposed site and facility will unduly interfere with the orderly development of the region having given due consideration to the views of municipal and regional planning commissions and municipal governing boards.
- (d) Each application shall include information about other required applications and permits as follows:
- (1) Identification of all other federal and state government agencies having jurisdiction, under state or federal law, to regulate any aspect of the construction or operation of the proposed facility;
 - (2) Documentation that demonstrates compliance with the application requirements of such agencies;
 - (3) A copy of the completed application form for each such agency; and

(4) Identification of any requests for waivers from the information requirements of any state agency or department whether represented on the committee or not.

(e) If the application is for an energy facility, the application shall include:

- (1) The type of facility being proposed;
- (2) A description of the process to extract, produce, manufacture, transport or refine the source of energy;
- (3) The facility's size and configuration;
- (4) The ability to increase the capacity of the facility in the future;
- (5) Raw materials used, as follows:
 - a. An inventory, including amounts and specifications;
 - b. A plan for procurement, describing sources and availability; and
 - c. A description of the means of transporting; and
- (6) Production information, as follows:
 - a. An inventory of products and waste streams;
 - b. The quantities and specifications of hazardous materials; and
 - c. Waste management plans.

(f) If the application is for an electric generating unit which is either a bulk power facility or a renewable energy facility, the application shall include the following information:

- (1) Make, model and manufacturer of the unit;
- (2) Capacity in megawatts, as designed and as intended for operation;
- (3) Type of unit, including:
 - a. Fuel utilized;
 - b. Method of cooling condenser discharge;
 - c. Whether the unit will serve base, intermediate or peaking loads;
 - d. Unit efficiency; and
 - e. Impact on system stability and reliability;
- (4) Any associated new substations and transmission lines; and

(5) Construction schedule, including start date and scheduled completion date.

(g) If the application is for a transmission line or a bulk power facility or renewable energy facility with an associated transmission line, the application shall include the following information:

(1) Location shown on U.S. Geological Survey Map;

(2) Corridor width for:

a. New route; or

b. Widening along existing route.

(3) Length of line;

(4) Distance along new route;

(5) Distance along existing route;

(6) Voltage (design rating);

(7) Any associated new generating unit or units;

(8) Type of construction (described in detail);

(9) Construction schedule, including start date and scheduled completion date; and

(10) Impact on system stability and reliability.

(h) Each application shall include the following:

(1) A description in detail of the type and size of each major part of the proposed facility;

(2) Identification of the applicant's preferred location and any other options for the site of each major part of the proposed facility;

(3) A description in detail of the impact of each major part of the proposed facility on the environment for each site proposed;

(4) A description in detail of the applicant's proposals for studying and solving environmental problems;

(5) A description in detail of the applicant's financial, technical and managerial capability to construct and operate the proposed facility;

(6) A statement of assets and liabilities of the applicant; and

(7) Documentation that written notification of the proposed project, including appropriate copies of the application, has been given to the governing body of each community in which the facility is proposed to be located.

(i) Each application shall include information regarding the effects of the facility on, and plan for mitigation of any effects for, the following:

- (1) Aesthetics;
- (2) Historic sites;
- (3) Air quality;
- (4) Water quality;
- (5) Natural environment; and
- (6) Public health and safety.

(j) Each application shall include information regarding the effects of the facility on the orderly development of the region, including the applicant's estimate of the impacts of the construction and operation of the facility on:

- (1) Local land use;
- (2) Local economy; and
- (3) Local employment.

(k) Each application shall include pre-filed testimony and exhibits supporting the application.

Site 301.04 Completeness Review and Acceptance of Applications for Bulk Power Supply Facilities and Energy Facilities.

(a) Upon the filing of an application for a bulk power supply facility or an energy facility, the committee shall forward to each of the other state agencies having jurisdiction, under state or federal law, to regulate any aspect of the construction or operation of a proposed facility, a copy of the application for the agency's review as described in RSA 162-H:7,III.

(b) Upon receiving an application, the committee shall conduct a preliminary review to ascertain if the application contains sufficient information for the committee to review the application to carry out the purposes of RSA 162-H.

(c) Within 60 days after the filing of the application, the committee shall decide whether to accept the application as complete.

(d) If the application is incomplete, the chairperson shall explain in writing the basis for the decision.

(e) If the applicant is notified that its application is incomplete, the applicant may file a new application or complete the filed application within 10 days of receipt of notification that the application is incomplete.

(g) If the applicant completes the application within the 10-day time frame, the committee shall, no later than 14 days after receipt of the revised application, accept the application. If the application is not complete, the committee shall notify the applicant in writing and instruct the applicant to file a new application.

Site 301.05 Completeness Review and Acceptance of Applications for Renewable Energy Facilities.

(a) Upon the filing of an application for a renewable energy facility, the chairperson shall forward to each of the other state agencies having jurisdiction, under state or federal law, to regulate any aspect of the construction or operation of a proposed facility, a copy of the application for the agency's review as described in RSA 162-H:7,IV.

(b) Upon the filing of an application, the chairperson or designee shall conduct a preliminary review to ascertain whether the application contains sufficient information to carry out the purposes of RSA 162-H.

(c) Within 30 days after the filing of the application, the chairperson or designee shall decide whether to accept the application.

(d) If the application is determined to be incomplete, the chairperson or designee will notify the applicant in a writing stating the basis for the decision.

(e) If the applicant is notified that its application is incomplete, the applicant may file a new application or complete the filed application within 10 days of receipt of notification of that the application is incomplete.

(f) If the applicant completes the application within the 10-day time frame, the chairperson or designee shall, no later than 14 days after receipt of the revised application, accept the application. If the application is not complete, the chairperson or designee shall notify the applicant in writing and instruct the applicant to file a new application.

SITE 302 ENFORCEMENT OF TERMS AND CONDITIONS

Site 302.01 Determination of Violation.

(a) The committee shall, upon its own motion or in response to a complaint of a potential violation of a term or condition of a certificate, conduct an adjudicative hearing pursuant to Site 201 to determine whether a violation of a certificate term or condition has occurred.

(b) When the committee commences an enforcement hearing upon complaint, the complainant shall be admitted as a party to the proceeding.

(c) Except for emergencies, the committee shall provide 14 days written notification of the hearing referred to in (a) to the holder of the certificate.

(d) If the committee determines that a violation has occurred following an adjudicative hearing, the committee shall issue an order that suspends the holder's certificate until such time as the violation has been corrected.

Site 302.02 Revocation of Certificate

(a) The committee shall have the authority to revoke a certificate according to this section.

(b) If the committee has suspended a certificate pursuant to Site 302.01 above and the holder has failed to correct the violation which caused the suspension, the committee shall initiate a proceeding to revoke the suspended certificate.

(c) The committee shall provide 90 days written notice to the holder of the certificate that the committee intends to revoke the certificate and stating the reasons for the revocation.

(d) Except for emergencies, the committee shall conduct an adjudicative hearing prior to revoking a certificate.

Site 302.03 Emergencies

(a) For the purposes of this section, “emergency” means an event which jeopardizes public health and safety.

(b) With respect to emergencies, the committee shall provide 5 days notice of an adjudicative hearing to the holder of a certificate.

Site 302.04 Waiver of Rules.

(a) The committee shall waive the provisions of this chapter, except where precluded by statute, upon request by an interested party if the committee finds that:

(1) The waiver serves the public interest; and

(2) The waiver will not disrupt the orderly and efficient resolution of matters before the committee.

(b) In determining the public interest, the committee shall waive a rule if:

(1) Compliance with the rule would be onerous or inapplicable given the circumstances of the affected person; or

(2) The purpose of the rule would be satisfied by an alternative method proposed.

(c) Any interested party seeking a waiver shall make a request in writing, except as provided in (d) below.

(d) The committee shall accept for consideration any waiver request made orally during a hearing or prehearing conference.

(e) A request for a waiver shall specify the basis for the waiver and the proposed alternative, if any.